

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Alcides Agustin Alvarez Monge,)	Civil Action No.: 4:14-cv-1250-RBH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Dr. William Miles,)	
)	
Defendant.)	
)	

Plaintiff Alcides Agustin Alvarez Monge, proceeding *pro se*,¹ filed this action pursuant to 42 U.S.C. § 1983 against Defendant Dr. William Miles (“Defendant”) on April 8, 2014. *See* Compl., ECF No. 1. On January 26, 2015, Defendant filed a motion for summary judgment. *See* Def.’s Mot., ECF No. 42. On February 13, 2015, Plaintiff filed a response in opposition. *See* Pl.’s Resp., ECF No. 46. After receiving an extension from the Court, Defendant filed a reply in support of his motion on March 2, 2015. *See* Def.’s Reply, ECF No. 52.

The matter is now before the Court for review of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. *See* R & R, ECF No. 54. In the Report and Recommendation, the Magistrate Judge recommends the Court grant Defendant’s motion for

¹ At the time Plaintiff filed this action, he was incarcerated at the Stewart Detention Center in Lumpkin, GA. *See* ECF No. 1 at 3. He was later transferred to the Houston Processing Center of the Bureau of Immigration and Customs Enforcement. *See* Notice of Change of Address, ECF No. 11. After the Magistrate Judge issued his R & R, Plaintiff submitted another change of address form indicating that his new mailing address is: 19390 Collins Ave. PH8, Sunny Isles Beach, Florida 33160, which appears to be a private address. The R & R was re-mailed to this address, but returned to the Court as undeliverable on April 9, 2015. Accordingly, it is unclear whether Plaintiff is still incarcerated and what his proper mailing address is.

summary judgment due to Plaintiff's failure to exhaust administrative remedies and dismiss this action. *See id.* at 8.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

No party has filed objections to the Report and Recommendation.² In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendations. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated

² The Magistrate Judge issued his R & R on March 9, 2015. *See* ECF No. 54. Therefore, objections to the R & R were originally due by March 26, 2015. As noted above, however, on March 16, 2015 the Court received a notice of change of address from Plaintiff. *See* ECF No. 56. Therefore, the Court re-mailed the R & R to this new address on March 16, 2015. *See* Notice, ECF No. 57. Accordingly, the Court calculated the deadline for filing objections from the re-mailing date, moving the deadline to file objections to April 2, 2015. As of the date of this Order, the Court has received no additional filings from Plaintiff.

by reference. Therefore, it is **ORDERED** that Defendant's motion for summary judgment is **GRANTED** and this action is dismissed.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
April 14, 2015